

REMARKS

Claims 1, 2 and 4-15 remain pending in the application.

Allowable Claims 12 and 15

The Applicants thank the Examiner for the indication that claims 12 and 15 recite allowable subject matter. Claims 12 and 15 are amended herein to be in independent form.

Claims 1, 2, 4, 5, 9-11, 13 and 14 over Harris

In the Office Action, claims 1, 2, 4, 5, 9-11, 13 and 14 were rejected under 35 USC 102(e) as allegedly being anticipated by U.S. Pat. No. 6,580,372 to Harris ("Harris"). The Applicants respectfully traverse the rejection.

Applicants reserve the right to swear back of the Harris reference with a suitable Affidavit or Declaration under 37 C.F.R. 1.131. It would seem unnecessary to do so, however, as Harris is quite different from the present invention.

Claims 1 and 2 are amended to contain the subject matter of claim 3 (now canceled). Since claim 3 was not subjected to the present rejection, it is presumed that the Examiner would agree that claims 1 and 2 are not anticipated by Harris.

Claims 4 and 5 recite an earth coordinates authorization module to determine **authority** of a received set of coordinates **to gain access** to a wireless network. Claims 9-11, 13 and 14 recite **authorizing** a wireless piconet network device **to gain access** to a wireless network, and of **authorizing** the wireless piconet network device **to gain access** to the wireless network based on the received set of earth coordinates.

The present invention clearly relates to provision of **authorization** to **permit** a piconet device to join the wireless piconet. **Harris is completely opposite to the present invention.**

According to Harris' own summary at col. 1, lines 24-27, Harris "teaches detecting locations of an electronic device and determining if that location is within an unauthorized location."

Harris clearly relates to the free and open use of a wireless network such as a piconet to communicate information about the device being unauthorized for use in the area.

In one embodiment, Harris erects an RF shield about the perimeter of a gas station to prevent use of cell phones at the gas station. In another embodiment Harris goes so far as to erect an RF shielding roof over the gas station. In the embodiments relied on by the Examiner to teach the use of a Bluetooth piconet (Harris, col. 2, lines 11-16; col. 4, lines 25-27), Harris **RELIES** on free and open access to the piconet to provide information about activity of an associated cell phone. If the associated cell phone is being used, an alarm is sounded (Harris, col. 2, lines 24-25), the gas pump may be stopped (Harris, col. 2, lines 31-32), etc. In other embodiments, Harris teaches the use of a peephole camera to allow an attendant to visually see a person using a cell phone, who may take appropriate action (e.g., sounding an alarm) (Harris, col. 5, lines 45-49).

All relevant embodiments of Harris, if they use a piconet at all, RELY on free and open access of devices to that piconet to allow a means to detect cell phone usage, and to appropriately warn about usage of the cell phone in the unauthorized area.

The present invention provides a level of security to a wireless piconet, acting as a gatekeeper of a given secured area. Thus, there is automatic restriction of access to the wireless piconet. (See, e.g., Abstract).

Harris fails to disclose the determination of **authority** of a wireless device at a received set of coordinates to gain access to a wireless network, as claimed by claims 4 and 5. Moreover, Harris fails to disclose **authorizing** a wireless piconet network device to gain access to a wireless network, and of **authorizing** the wireless piconet network device to gain access to the wireless network based on the received set of earth coordinates, as claimed by claims 9-11, 13 and 14.

For at least all the above reasons, claims 1, 2, 4, 5, 9-11, 14 and 14 are patentable over the prior art of record. It is therefore respectfully requested that the rejection be withdrawn.

Claims 3 and 6 over Harris in view of Vaisanen

Claims 3 and 6 were rejected under 35 USC 103(a) as allegedly being obvious over Harris in view of U.S. Pat. No. 6,560,443 to Vaisanen et al. ("Vaisanen"). Claim 3 is canceled herein, thereby technically mooting the rejection in that regard. Claim 1 is amended herein to include the subject matter of canceled claim 3. The Applicants respectfully traverse the rejection.

Claims 1 and 6 recite a wireless piconet front end and a GPS receiver, together with a password entry module for a user of a wireless piconet device to enter an **authorizing** password.

As discussed herein above, Harris fails to disclose, teach or suggest use of an **authorizing password** as claimed by claim 1, and in fact **teaches away from** the use of any password by relying upon free and open communication over the piconet for any car that drives into the gas station. Moreover, Harris fails to disclose determination of **authority** of a wireless device at a received set of coordinates **to gain access** to a wireless network, as claimed by claim 6.

The Examiner cites Vaisanen for allegedly teaching that "password encryption increases security in a BLUETOOTH device" (Office Action at 3).

It is respectfully submitted that while Harris teaches away from the present invention by relying upon free and open piconet access, Vaisanen reinforces that **opposite** teaching, and in fact teaches even further away. Vaisanen teaches use of password encryption to make it even harder for a car pulling into the gas station according to Harris' invention to communicate that a cell phone is in operation. What driver pulling into a gas station would take the time to pull over, enter a password allowing Harris' system to detect whether or not they are using their cell phone--and if so to sound an alarm!

The combination of Harris and Vaisanen is non-sensical, and only reinforces the teaching **away** from the present invention.

Even the combination of Harris and Vaisanen, even if proper, still fails to teach or suggest a wireless piconet front end and a GPS receiver as recited in claim 1, or together with a password entry module for a user of a wireless piconet device to enter an authorizing password, as required by claim 6.

For at least all the above reasons, claims 3 and 6 are patentable over the prior art of record. It is therefore respectfully requested that the rejection be withdrawn.

Claims 7 and 8 over Harris in view of Vaisanen

Claims 7 and 8 were rejected under 35 USC 103(a) as allegedly being obvious over Harris in view of Vaisanen. The Applicants respectfully traverse the rejection.

Claims 7 and 8 depend from claim 1, and are patentable for all the reasons explained above with respect to the rejection of claim 3 (now amended into claim 1).

Moreover, the rejection of claim 8 is improper.

In particular, the Examiner uses Harris as support for the rejection of claim 8 an argument of a feature in claim 8 that “would *inherently* occur when the phone updates the location.” (Office Action at 4)(emphasis added)

Under the doctrine of necessary inherency, anticipation may be established when a single prior art reference fails to disclose the claimed invention ipsissimis verbis, but the natural and invariable practice of the reference would necessarily inherently meet all the elements of the claim. See, e.g., Verdegaal Bros., Inc. v. Union Oil Co. of Cal., 814 F.2d 628, 2 USPQ2d 1051 (Fed. Cir. 1987); In re King, 801 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986); Tyler Refrigeration v. Kysor Indus. Corp., 777 F.2d 687, 227 USPQ 245 (Fed. Cir. 1985); Ethyl Molded Products Co. v. Betts Package Inc., No. 85-111 1032 (D.C.E.D. Kent. 1988). The doctrine of inherency is available only when the inherency can be established as a certainty; probabilities are not sufficient. In re Oelrich, 666 F.2d 578, 581, 212 USPQ 323, 326 (CCPA 1981); In re

Chandler, 254 F.2d 396, 117 USPQ 361 (CCPA 1981); Ethyl Molded Prod. Co. at 1032.

However, the use of inherency at all is entirely improper with respect to a section 103 rejection. The concept of inherency has no place in determinations of obviousness under section 103, as opposed to anticipation under section 102, because “it confuses anticipation by inherency, i.e., lack of novelty, with obviousness, which, though anticipation is the epitome of obviousness, are separate and distinct concepts.” Jones v. Hardy, 727 F.2d 1524, 1529, 220 USPQ 1021, 1025 (Fed. Cir. 1984); See also In re Grasselli, 713 F.2d 731, 739, 218 USPQ 769, 775-76 (Fed. Cir. 1983)

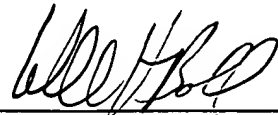
The foundation for the section 103 rejection of claim 8 being improperly based on an allegedly inherent feature of Harris, it is respectfully requested that the improper rejection be withdrawn.

For at least all the above reasons, claims 7 and 8 are patentable over the prior art of record. It is therefore respectfully requested that the rejection be withdrawn.

Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,



William H. Bollman
Reg. No. 36,457

MANELLI DENISON & SELTER PLLC
2000 M Street, NW
Suite 700
Washington, DC 20036-3307
TEL: (202) 261-1020
FAX: (202) 887-0336